

# Workers Compensation 101

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Ombudsman, Mediator

KDOL, Division of Workers Compensation



# **WORKERS COMPENSATION**

is an insurance plan provided by employers to provide employee benefits for job related injuries, disability or death.

# Why do we have Workers Compensation?

**Exclusive Remedy**

**No-Fault System**

# Back Breaking Work





ER 150 PERSONS, MOST OF THEM GIRLS, DIE AS FIRE  
TRAPS HAPLESS FACTORY WORKERS IN MANHATTAN SKYSCRAPER

ed to Windows by Flames, Scores Jured  
to Death on Pavements Far Below.  
Many Frightfully Injured.

James Foley, ex-Flores, starting in Flores of the  
Triangle World Company at 21 Washington  
Place, Ensigns 10-Chry Teachers.  
Continue 600 teachers.

44-38861-10000

[illegible]

BLINDING TEMPORARY CAPTIVE FOR THE VICTIMS



54. *Widdowson, How the Colored Man Lived in Rome Before Jesus Christ's Heavenly Voyage*

## LIST OF DEAD AND THE INJURED

The first is a comparison of the two different methods of measuring the same thing. The second is a comparison of the two different methods of measuring the same thing.

WOMEN-BATTLE  
TO SEE THE DEAD

**Amvaka**  
**Stylo**

The Power  
Of a Name.  
A True Story.  
With a Moral.

**GREAT IS THE POWER** of a name which has stood for years as a synonym for square dealing, for SATISFACTION DEF. INC. The value is greater than can be represented in language or counted in gold, for it is **GOOD** will.

[illegible]

The 20th day proved to be busy. After the same open to market the strong rain falling from at the good occasion. And when the weather cleared the sun was visible, finally the day of

13. *What is the author's main purpose in writing this passage?*

**“It’s a Pirate’s Life For Me!**



**The Benefits Are Great.”**





# Workers' Compensation CLAIM FOR COMPENSATION

*Failure to complete this form in its entirety may result in a denial of your claim.*

Submit original and three copies. Please read instructions.



Original Claim



Amended Claim

# Grand Bargain

- Specific Benefits

- No Fault

- Safety Net

- No Law Suit

- Limits Benefits

- Good for  
Commerce



# No Fault

- Doesn't mean the employee can deliberately cause an injury or recklessly violate workplace safety rules or regulations
- The employee still has to use reasonable protection against an accident or injury
- Culture of safety by the employer

Workers Compensation  
Coverage is provided  
by the employer &  
begins with the **1st** day  
of employment.

# 3 METHODS OF COVERAGE

## KSA 44-532(b)

- 1) Insuring with an insurance carrier authorized in the state of Kansas
- 2) Self-insurance
- 3) Maintaining a membership in a qualified group funded workers compensation pool (info at [www.insurance.Kansas.gov](http://www.insurance.Kansas.gov), Kansas Insurance Dept)

# EXEMP T

- Sole Proprietor, Partnerships
- \$20,000 or less in gross annual payroll
- Agricultural Pursuits
- Real Estate Agents
- Members of a Limited Liability Company (LLC)
- Sub-Contractors/Independent Contractors



# Fraud

- The knowing and intentional failure of an employer to secure the payment of workers compensation to the employer's employees as required in subsection (b) of [K.S.A. 44-532] is a class A misdemeanor.
- Penalty: 2 x Annual Premium or \$25,000, whichever is greater.

# Elections

- Certain employers or individuals can elect to come under or elect themselves out of the Workers Compensation Act
- Examples:
  - Owner of 10% or more corporate stock
  - < \$20K employer elects to cover workers
  - Exempt person to come under The Act
  - To cover volunteers

# Elections

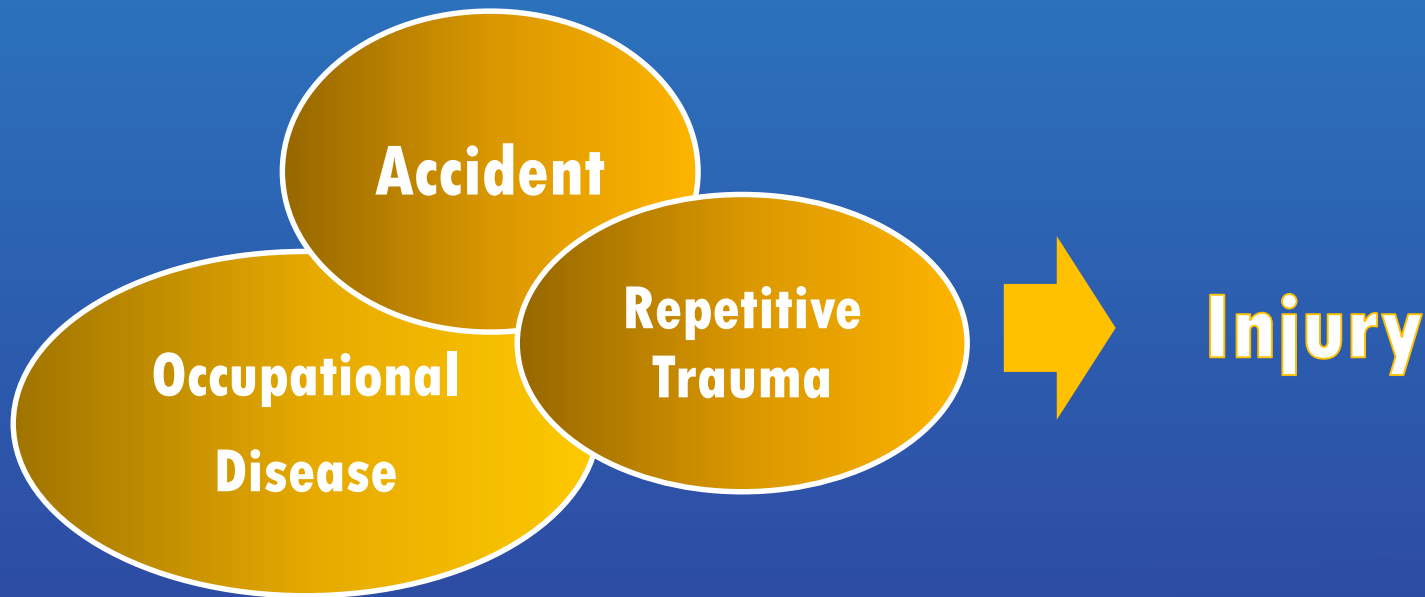
- Must be filed with the Division to be in effect
- Elections are entered in OSCAR
  - Complete, print, sign, upload
- Create an OSCAR account
- Third party must be assigned permissions
  - contact OSCAR support

# Jurisdiction

- **The injury occurred in Kansas**
- **The employer is located in Kansas**
- **The contract of employment was made in Kansas**



Injury is defined in K.S.A. 44-508(f) as a lesion or change in the physical structure of the body causing damage or harm.



# Accident

- K.S.A. 44-508(d)

- Unexpected

- Specific date

- Specific place



# Repetitive Trauma

- K.S.A. 44-508(f)
- Repetitive use, cumulative traumas or micro traumas
- Demonstrative by diagnostic or clinical tests
- No specific date or time for injury
  - The date advised by physician that the condition is work related



# Occupational Disease

- K.S.A. 44-5a01
- Disease arising out of and in the course of the employment and within one year of the last injurious exposure
- The occupation would have a particular or peculiar hazard distinctive to that employment
- The hazard of the disease associated with the employment is in excess of that of the general population



# Prevailing Factor

## K.S.A. 44-508(f)

- Arises out of and in the course of employment
- The primary factor in relation to any other factor
- If due to a preexisting condition, then the incident is not compensable

# Substance Impairment

An employer is not liable for workers compensation benefits if an employee is impaired and the impairment contributed to the injury.

# Impairment

An employee's refusal to submit to a chemical test at the request of the employer shall result in the forfeiture of benefits under the Workers Compensation Act if the employer has sufficient cause to suspect the use of alcohol/drugs by the claimant or if the employer's policy clearly authorizes post injury testing.

# Employers Must

- Post K-WC 40-A form.
- Fill in insurance carrier's information
- Form is in English and Spanish
- Available to download at [www.dol.ks.gov](http://www.dol.ks.gov)

## This notice must be posted and maintained by the employer in one or more conspicuous places. Workers Compensation Rights and Responsibilities

Your employer is subject to the Kansas Workers Compensation Law which provides compensation for job-related injuries.

This notice applies to dates of accidents on or after **April 25, 2013**.

Este aviso aplica a las fechas de los accidentes a partir de **Abril 25, 2013**.

### WHAT TO DO IF AN INJURY OCCURS ON THE JOB

**NOTIFY YOUR EMPLOYER IMMEDIATELY.** Per K.S.A. 44-520, a claim may be denied if an employee fails to notify their employer within the earliest of the following dates: (A) **20 calendar days** from the date of accident or the date of injury by repetitive trauma; (B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, **20 calendar days** from the date such medical treatment is sought; or (C) if the employee no longer works for the employer against whom benefits are being sought, **10 calendar days** after the employee's last day of actual work for the employer.

Notice may be given orally or in writing. Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.

Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment.

The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.

**BENEFITS. Benefits are paid by the employer's insurance carrier or self insurance program.** Benefits include medical treatment, partial wage replacement for lost time and additional benefits if the injury results in permanent disability. An employer is required to furnish all necessary medical treatment and has the right to designate the treating physician. If the employee seeks treatment from a doctor not authorized by the employer, the employer or its insurance carrier is only liable up to \$500.00 dollars for the unauthorized medical treatment.

### QUE HACER SI UNA LESIÓN OCURRE EN EL TRABAJO

**NOTIFIQUE A SU EMPLEADOR INMEDIATAMENTE.**

De acuerdo con el artículo de ley K.S.A. 44-520, un reclamo puede ser negado si el empleado no notifica a su empleador dentro de antes de las siguientes fechas: (A) **20 días** a partir de la fecha del accidente o la fecha de la lesión debido a trauma por movimientos repetitivos; (B) si el empleado está trabajando con el empleador en contra del cual se están buscando beneficios y dicho empleado busca tratamiento médico por cualquier lesión por accidente o trauma repetitiva, **20 días** a partir de la fecha que dicho tratamiento médico ha sido obtenido; o (C) si el empleado ya no trabaja para el empleador en contra del cual se están buscando beneficios, **10 días** después del último día de trabajo para dicho empleador.

El aviso puede darse oralmente o por escrito. Donde el aviso se da oralmente, si el empleador ha designado un individuo o departamento a quien el aviso se debe dar y tal designación ha sido comunicada por escrito al empleado, aviso a cualquier otro individuo o departamento deberá ser insuficiente bajo esta sección. Si el empleador no ha designado a un individuo o departamento a quien se debe dar el aviso, el aviso puede darse a un supervisor o gerente.

Donde el aviso se hace por escrito, el aviso debe ser enviado a un supervisor o gerente de la oficina principal de empleo del trabajador.

El aviso, sea que se haga oralmente o por escrito, debe incluir la hora, fecha, lugar, persona lesionada y detalles de tal lesión. Debe ser visible a partir del contenido del aviso, que el empleado está reclamando beneficios bajo la ley de compensación del trabajador o que ha sufrido una lesión relacionada con el trabajo.

**BENEFICIOS. Los beneficios son pagados por la compañía aseguradora del empleador o programa de seguro propio.** Los beneficios incluyen tratamiento médico, reemplazo de sueldo parcial por tiempo perdido y beneficios adicionales si la lesión resulta en incapacidad permanente. El empleador debe proporcionar todo el tratamiento médico necesario y tiene el derecho de designar al doctor para dicho tratamiento. Si el empleado busca tratamiento con un doctor que no ha sido autorizado por el empleador, el empleador o su compañía aseguradora serán responsables de pagar solamente los primeros \$500.00 dólares para tratamiento médico no autorizado.

### WHERE TO GET HELP WITH YOUR CLAIM (DÓNDE CONSEGUIR AYUDA CON SU RECLAMO):

Employer's Insurance Carrier (Compañía Aseguradora del Empleador)

Telephone (Teléfono de la Aseguradora)

Address (Dirección de la Aseguradora)

**For questions about Workers Compensation Law, contact (Para preguntas acerca de la Ley de Compensación del Trabajador):**

KANSAS DEPARTMENT OF LABOR  
Division of Workers Compensation/Ombudsman  
401 SW Topeka Blvd., Suite 2, Topeka, KS 66603-3105

Website: [www.dol.ks.gov/workcomp/default.aspx](http://www.dol.ks.gov/workcomp/default.aspx)  
Email: [wc@dol.ks.gov](mailto:wc@dol.ks.gov)  
Phone: (800) 332-0353 or (785) 296-4000

Persons with impaired hearing or speech utilizing a telecommunications device may access the above number(s) by using the Kansas Relay Center at (800) 766-3777.

[www.dol.ks.gov](http://www.dol.ks.gov)

KANSAS DEPARTMENT OF LABOR

K-WC 40-A (4-13)



# Notice of Injury

- Injuries must be reported to the employer
  - **20** calendar days from the date of the accident
  - **20** calendar days from the date when the employee seeks medical treatment
  - **10** calendar days from the employee's last day of work
  - **90** days from disablement from occupational disease

# Notice of Injury

Employees can provide either an oral or written notice but must include particulars:

**WHO?**

**WHAT?**

**WHEN?**

**WHERE?**

# Employer Must

KANSAS DEPARTMENT OF LABOR  
www.dol.ks.gov

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## INFORMATION FOR INJURED EMPLOYEES

K-WC 27-A (Rev. 11-16)

\* THIS NOTICE APPLIES TO ACCIDENTS ON OR AFTER APRIL 25, 2013 \*

Employers are required to provide this information to each injured worker

### WHAT TO DO IF AN INJURY OCCURS ON THE JOB

If you have any questions about workers compensation benefits, contact the Division of Workers Compensation at the phone number at the bottom of the page. Assistance in Spanish is available.

(1) **NOTIFY YOUR EMPLOYER IMMEDIATELY:** Per K.S.A. 44-520, a claim may be denied if an employee fails to notify their employer within the earliest of the following dates: (A) 20 calendar days from the date of accident or the date of injury by repetitive trauma; (B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or (C) if the employee no longer works for the employer against whom benefits are being sought, 10 calendar days after the employee's last day of actual work for the employer.

Notice may be given orally or in writing. Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.

Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment.

The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.

(2) **FOLLOW YOUR EMPLOYER'S INSTRUCTIONS** for getting medical aid and follow the doctor's instructions.

(3) **MEDICAL BENEFITS:** An injured worker is entitled to all medical services reasonably necessary to cure and relieve the worker from the effects of the injury. The employer has the right to select the doctor who will treat the injury. A worker may seek the services of an unauthorized doctor up to a limit of \$500.00. A worker may apply to the Workers Compensation Director to change the authorized treating doctor. Reimbursement for travel to obtain medical treatment is payable at a rate set by law for trips that are five miles or more (round trip).

(4) **WEEKLY BENEFITS:** Benefits are paid by the employer's insurance carrier or self insurance program. Injured workers are not entitled to compensation for the first week they are off work unless they lose three consecutive weeks. The first compensation payment is normally due at the end of the 14<sup>th</sup> day of lost time. An injured employee is entitled to a weekly amount of 66 ⅔ percent of his/her average weekly wage up to a maximum of 75 percent of the state's average weekly wage. These benefits are subject to legislative changes. If the injury results in permanent disability, the Kansas Workers Compensation law provides for additional benefits.

- Once an employer is notified of an injury, the employer must provide K-WC 27-A (English) or K-WC-270A (Spanish) to the employee or dependent if death occurred.

# Employer Must

- Send employee for medical evaluation / treatment
- The employer should respond quickly to have the greatest chance for a successful outcome

Employers



pay for

any workers compensation  
expenses out of pocket  
unless they are a self-insured  
employer

# Claim

- Employer/insurance carrier has the right to designate the treating physician
- Injured worker may seek services of an unauthorized physician up to \$500 in fees
  - Notify Insurance Adjuster
  - Cannot be used for functional impairment rating



# Benefits Include

- Employer provides
    - Medical treatment, including medicines
    - Temporary partial wage replacement
    - Medical mileage for more than 5 miles round trip, or transportation services
- In addition, if injury leaves a permanent impairment, the employer will provide
- Permanent impairment award

# Reporting

- Required by K.S.A. 44-557 the employer must report any alleged lost-time accident to the Director of Workers Compensation
  - Insurance Carrier
  - Electronic Data Interchange (EDI)
  - Within 28 days of knowledge
- Failure to report = \$250 per occurrence

# Medical Records

- The patient's privilege of preventing the furnishing of medical records by a health care provider is waived when seeking worker compensation benefits
- Unreasonable refusal by an injured worker to cooperate in providing the employer/carrier medical information may result in compensation being denied or terminated

# Maximum Benefits as of July 1, 2021

- Medical treatment (includes RX) - no limit
- Medical mileage > 5 miles round trip at \$0.56 per mile
- Maximum weekly benefits - \$737
- Temporary total disability (TTD) - \$130,000
- Permanent partial disability (PPD) - \$130,000
- Permanent total disability (PTD) - \$155,000

# Maximum Fatality Benefits as of July 1, 2018

- Death with spouse/wholly dependent children: \$300,000 – paid 50/50
- \$60,000 immediately, balance paid weekly
- Death with no spouse/children but other wholly dependent: \$100,000
- Death with partial dependents: Percentage of 3 x annual earnings up to \$100,000, not < \$25,000

# Maximum Fatality Benefits as of July 1, 2018

- Death with no dependents: \$100,000  
minus employer life insurance > \$50,000
- Burial: \$10,000
- Conservator: \$2,500

Table of Maximum Benefits Available at  
[www.dol.ks.gov](http://www.dol.ks.gov)



# Categories of Disability Benefits

- Temporary Total Disability (TTD)
- Temporary Partial Disability (TPD)
- Permanent Partial Disability (PPD)
  - Scheduled
  - Non-Scheduled/Whole Body
- Permanent Total Disability (PTD)

# Temporary Total Disability (TTD)

- Due if injured employee is unable to engage in substantial & gainful employment
- Waiting period is 7 calendar days
  - If disabled for 3 consecutive weeks the employee is paid for the waiting period
- 66.67% of employee's average gross weekly wage, not less than \$25 & not more than maximum of \$130,000

# Temporary Partial Disability (TPD)

- Worker returns to work at a wage less than that at the time of the injury
- 7-day waiting period applies
- Must be temporary
- Maximums apply

# Notice

Pursuant to KSA 44-5101, the insurer or self-insured employer shall provide the following notice to the injured worker with the 1<sup>st</sup> check for temporary disability benefits:

# Notice

Warning: Acceptance of employment with a different employer that requires the performance of activities you have stated you cannot perform because of the injury for which you are receiving temporary disability benefits could constitute fraud and could result in loss of future benefits and restitution of prior workers compensation awards and benefits paid.

# Permanent Partial Disability (PPD)

Complete or partial loss of  
or loss of use of a  
body part(s)

- Scheduled
- Non-Scheduled/Whole Body



# Permanent Partial Disability (PPD)

- Scheduled Disability
  - e.g. leg 200 weeks, thumb 60 weeks
- Number of weeks paid is calculated by multiplying the maximum available weeks, less any weeks of temporary benefits, times the percentage of functional impairment.

# Functional Impairment

- Injuries after January 1, 2015 ratings are based on the 6<sup>th</sup> Edition of the AMA Guides
- Injuries before January 1, 2015 ratings are based on the 4<sup>th</sup> Edition of the AMA Guides

# Permanent Partial Disability (PPD)

- Non-Scheduled (General) Disability
  - Greater of the percentage of functional impairment OR the employee's reduced ability to perform and average weekly wage
  - Employees earning 90% of the pre-injury wage are limited to functional impairment
  - Maximum number of weeks is 415
    - Excess of 15 weeks of TTD is deducted from max

# Permanent Total Disability (PTD)

- Exists when the injured worker has been rendered completely and permanently incapable of engaging in any type of substantial or gainful employment
  - e.g., loss of both eyes, paralyzed

# Permanent Total Disability (PTD)

- Benefits are 66.67% of the employee's average gross weekly wage paid for the duration of the disability
  - Not less than \$25
  - Total compensation up to maximum of \$155,000
  - NO more than 1 PTD in a lifetime

# Ombudsman Section

Assist injured workers, employers,  
insurance carriers, agents,  
attorneys, medical providers, etc.  
throughout the workers  
compensation process.

785-296-4000 option 2

[KDOL.wc@ks.gov](mailto:KDOL.wc@ks.gov)



# Industrial Safety and Health

Workplace safety and health  
assistance is available at

785-296-4386

[KDOL.indsafetyhealth@ks.gov](mailto:KDOL.indsafetyhealth@ks.gov)

<https://www.dol.ks.gov/ish>



QUESTIONS

Alti Soria  
Obrigado  
Takk  
GRACIAS  
Danke  
Salamat  
Hualala  
Asko  
10Q  
Toda  
Thank You  
Thanks  
Mehmet  
Mahalo  
Köszönöm  
GRAZIE  
THX  
falemndjeit

# Contact Information

Department of Labor

785-296-4000 or 800-332-0353

Ryan Boswell

Ext. 7361

[www.dol.ks.gov](http://www.dol.ks.gov)